

REMARKS

The August 8, 2006 Office Action notes that claims 11 and 12 are under examination. Previous 35 U.S.C. §112, 35 U.S.C. §102 and 35 U.S.C. §103 rejections have been withdrawn. The Office Action rejects claims 11 and 12 in a new rejection under 35 U.S.C. §112.

In light of Applicants' submission, Applicants respectfully request reconsideration.

Section 112 Rejection

The Office Action has rejected claims 11 and 12 under 35 U.S.C. §112 first paragraph as failing to comply with the enablement requirement. The Examiner correctly notes that the invention employs "a T2DN rat obtained from a cross between a Fawn Hooded rat and a GK rat." (Office Action, page 3) The Examiner notes that the biological materials "must be obtainable by a repeatable method set forth in the specification" and opines that "the process is tedious and requires undue experimentation. Moreover, it is not apparent if the biological materials are readily available to the public."

Applicants contest the Examiner's suggestion that they deposit the material and assert that the present invention is obtainable by a repeatable method that is set forth in the specification. Applicants also assert that the materials are publicly available. The T2DN rat of the present invention may be created without undue experimentation because Applicants are able to predict the outcome of the breeding strategy.

The specification of the above-identified application discloses a breeding scheme suitable for obtaining a T2DN mimic rat. Applicants draw the Examiner's attention to the material in the specification beginning with paragraph [0033]. There Applicants describe the cross-breeding of a male GK rat with a female Fawn Hooded rat. Applicants describe where one may obtain samples of these rats, although Applicants note that there are other sources. The EXAMPLES section of the application describes the genetic and physiological component of the T2DN mimic rat with some particularity. Applicants note, particularly paragraphs [0069] - [0075], where the genotype of the T2DN rat is described as well as histological markers. Note that [0076] describes specific markers and [0074] describes the renal histology of the T2DN mimic rats.

Enclosed is a Declaration of inventor Dr. Richard Roman containing a simple explanation of the breeding schemes. Dr. Roman describes a straight-forward selection system and notes that

the breeding scheme described in the EXAMPLES section of the specification is more complex than is absolutely necessary because the inventors were using marker-assisted selection. Given the information in the specification, one of skill would be free to simplify the process.

Applicants believe that they have satisfied the Examiner's section 112 rejection and that all claims are now allowable.

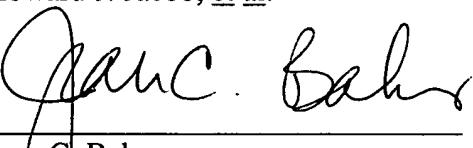
Fees

A petition for a one month extension of time accompanies this response so that the response is timely filed. No other extension is believed to be due, but should any additional extension be due, in this or any subsequent response, please consider this to be a petition for the appropriate extension and a request to charge the extension fee to Deposit Account No. 17-0055. No additional fees are believed due; however, if any fees are due, in this or any subsequent response, please charge Deposit Account 17-0055.

Respectfully submitted,

Howard J. Jacob, et al.

Date: 12/8/06

By: 

Jean C. Baker
Reg. No. 35,433
Attorney for Applicants
QUARLES & BRADY LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497

TEL (414) 277-5709
FAX (414) 978-8606